

SENATE BILL 2813

By Haynes

AN ACT to amend Tennessee Code Annotated, Section
17-2-123, relative to magistrates

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 17-2-123, is amended by adding the following as a new subsection (e):

(e)

(1) Notwithstanding any other law to the contrary, in any county having a metropolitan form of government and having a population of more than five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census, the circuit court judge or judges of such county, having domestic or probate jurisdiction, may appoint one (1) or more persons to act as magistrates and to hold such position at the pleasure of the appointing judge or judges.

(2) A magistrate appointed pursuant to subdivision (e)(1) shall be a member of the bar of this state and in good standing with the board of professional responsibility.

(3) The compensation of an appointed magistrate shall be paid from public funds and shall be fixed by the appointing judge or judges; provided, the county legislative body, or the pertinent governing body, approves such compensation.

(4) The appointing judge or judges, for whom the magistrate serves, may direct that any case or class of cases shall be heard in the first instance by the

appointed magistrate in all cases wherein such appointing judge's or judges' circuit court has jurisdiction.

(5) An appointed magistrate, serving pursuant to this subsection (e), shall have the same authority as the appointing judge or judges to issue any and all process and shall have the powers of a trial judge in the conduct of the proceedings.

(6) Upon conclusion of the hearing in each case, the appointed magistrate shall transmit to the appointing judge or judges all papers relating to the case, together with the appointed magistrate's findings and recommendations in writing.

(7) Any party may, within five (5) calendar days thereafter, excluding nonjudicial days as defined in § 37-1-102, file a request with the circuit court for a hearing by the appointing judge or judges. Such appointing judge or judges may, on the judge's or judges' own motion, order a rehearing of any matter heard before an appointed magistrate or shall allow a hearing if a request for such hearing is filed as prescribed in this subdivision (e)(7). Unless the appointing judge or judges order otherwise, the recommendations of the appointed magistrate shall be the decree of the circuit court, pending a rehearing.

(8) Any appeal from the appointed magistrate to the appointing judge or judges from a final order shall be tried de novo by the appointing judge or judges. Any appeal from the appointed magistrate to the appointing judge or judges of any preliminary matter shall be reviewed de novo upon the record.

(9) If no hearing of a final order before the appointing judge or judges is requested, or when the right to a hearing is waived, then the findings and recommendations of the appointed magistrate shall become the decree of the

circuit court when confirmed by an order of the appointing judge or judges. The final order of the circuit court shall be proof of such confirmation and proof that the matter was duly referred to the appointed magistrate.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.